

REMARKS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-15 are currently pending, of which Claims 9 and 10 are withdrawn from consideration. Claim 15 has been added; and Claims 1, 4, 5, 8, and 11 have been amended by the present amendment. The additions and amendments to the claims are supported by the originally filed specification and do not add new matter.¹

In the outstanding Office Action, Claim 8 was objected to as containing informalities; Claims 1-8, 12, and 13 are rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter; Claims 2, 3, 6, and 7 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement; Claims 4 and 8 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention; Claims 1, 5, 12, and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,164,882 to Poltorak (hereinafter “Poltorak”) in view of U.S. Patent No. 6,505,160 to Levy et al. (hereinafter “Levy”); Claims 2, 3, 6, and 7 were rejected under 35 U.S.C. §103(a) as being unpatentable over Poltorak and Levy in further view of U.S. Patent No. 6,204,419 to Fiedler (hereinafter “Fiedler”); Claims 4 and 8 were rejected under 35 U.S.C. §103(a) as being unpatentable over Poltorak and Levy in further view of U.S. Patent No. 6,912,431 to Kim et al. (hereinafter “Kim”); and Claims 11 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Poltorak and Levy in further view of U.S. Patent No. 6,272,472 to Danneels (hereinafter “Danneels”).

Regarding the objection to Claim 8, Applicants confirm that no new amendments were made to Claim 8 after the amendments to include the term “first” on the fifth and

¹ See e.g., Fig. 1 and the description thereof in Applicants’ specification.

seventh lines of the claim. Applicants request that Claim 8 be examined with the term “first” being included in the claim, as indicated in the Office Action.

Accordingly, the objection to Claim 8 has been overcome.

Regarding the 35 U.S.C. § 101 rejections of Claims 1-8, 12, and 13, Applicants respectfully traverse these rejections for the following reasons.

Firstly, Applicants note that the Office Action rejected Claim 1 under 35 U.S.C. § 101 by asserting the terms “receiver,” “memory unit,” and “memory” recited in Claim 1 are known to be only software components based on IEEE, “The Authoritative Dictionary of IEEE Standards Terms” (hereinafter, IEEE).

Applicants respectfully disagree with this assertion of the Office Action, and remind the Office that, as stated in M.P.E.P. § 2111, during patent examination, the claims *must* be given their broadest reasonable interpretation consistent with Applicants’ specification, and not with an extrinsic reference such as IEEE.

Further, M.P.E.P. § 2111 quotes the Court stating that:

The Patent and Trademark Office (“PTO”) *determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction “in light of the specification as it would be interpreted by one of ordinary skill in the art.”* In re Am. Acad. of Sci. Tech. Ctr., 367 F.3d 1359, 1364[, 70 USPQ2d 1827] (Fed. Cir. 2004). [Emphasis Added].

As directed by the Federal Circuit, the Office must determine the scope of the claims upon giving the terms “receiver,” “memory unit,” and “memory” their broadest reasonable construction *in light of the specification as it would be interpreted by one of ordinary skill in the art*. Applicants submit that one of ordinary skill in the art would certainly interpret the terms “memory unit” and “memory” recited in Claim 1 as being hardware components in light of at least Figs. 4 and 9, and the description thereof in Applicants’ specification.

Further, Applicants submit that Claim 1 is directed to an *apparatus* as show in Fig. 1, which includes a receiver, a memory unit, and a memory, having therein contents-related information and broadcasted contents being received by the receiver and being stored in the memory unit and the memory. Thus, Claim 1, considered as a whole, defines a machine or manufacture, and therefore falls within one of the four recognized statutory classes.

Accordingly, Applicants respectfully request that the 35 U.S.C. § 101 rejections of independent apparatus Claim 1, and dependent Claims 2-4 and 12, should be withdrawn.

Regarding the 35 U.S.C. § 101 rejections of method Claim 5, Applicants submit that Claim 5 is tied to particular statutory machines or manufactures, namely, the broadcasting station, the receiver, the memory unit, and the memory, consistent with In re Bilski.

Accordingly, Applicants respectfully request that the 35 U.S.C. § 101 rejections of independent method Claim 5, and dependent Claims 6-8 and 13, should be withdrawn.

Regarding the rejections of Claims 2 and 6 under 35 U.S.C. § 112, first paragraph, it is respectfully submitted that the feature of recording the first contents “at specific time intervals” is supported at least on page 10, line 26 - page 11, line 12 of Applicants’ specification. These lines clarify that, in an exemplary aspect, the first contents are recorded in the buffer at *a predetermined clock time*. That is, the first contents are recorded in the buffer at specific time intervals by recording the first contents at predetermined clock times.

Thus, the subject matter in Claims 2 and 6 is described in Applicants’ specification in such a way as to reasonably convey to one skilled in the relevant art that Applicants had possession of the claimed invention at the time of the application was filed.

Regarding the rejections of Claims 3 and 7 under 35 U.S.C. § 112, first paragraph, it is respectfully submitted that the feature of recording “different amounts of first contents in the buffer” is supported at least on page 10, line 26 - page 11, line 12 of Applicants’ specification. These lines clarify that, in an exemplary aspect, the first contents are recorded

in the buffer *for a predetermined time period*. That is, different amounts of the first contents are recorded in the buffer by recording the first contents for different predetermined time periods.

Thus, the subject matter in Claims 3 and 7 is described in Applicants' specification in such a way as to reasonably convey to one skilled in the relevant art that Applicants had possession of the claimed invention at the time of the application was filed.

Accordingly, Applicants respectfully request that the 35 U.S.C. § 112, first paragraph, rejections of Claims 2, 3, 6, and 7 should be withdrawn.

Regarding the rejections of Claims 4 and 8 under 35 U.S.C. § 112, second paragraph, these claims have been amended to address the antecedent basis issues cited in the Office Action. Accordingly, Applicants respectfully request that the 35 U.S.C. § 112, second paragraph, rejections of Claims 4 and 8 should be withdrawn.

Amended Claim 1 is directed to a content receiving apparatus, comprising:

a receiver configured to receive first contents from a broadcasting station and to receive an input recording request;

a temporary memory unit, *associated with the content receiving apparatus*, configured to temporarily store first contents-related information related to the first contents;

a memory, *in the content receiving apparatus and separate from the temporary memory unit*, configured to store and to relate when the input recording request is entered externally, *the first contents and the first contents-related information*, temporarily stored in the temporary memory unit,

the memory being configured to store a plurality of second contents and a plurality of second contents-related information received from a server, the second contents-related information being related to the first contents. [Emphasis Added].

Claim 1 has been amended to clarify that the temporary memory unit, *associated with the content receiving apparatus*, temporarily stores the first contents-related information related to the first contents. Further, Claim 1 clarifies that the memory, which is *in the*

content receiving apparatus and separate from the temporary memory unit, stores and *relates the first contents and the first contents-related information* based on having a receipt of the input recording request.

The Office Action associates the claimed memory with Poltorak's memory device (10C), as described in column 13, lines 3-24 of Poltorak, or with a memory location described in column 15, lines 52-61 and column 20, lines 16-32.²

Poltorak describes that the memory device (10C), *which is in Poltorak's broadcasting apparatus*, contains information provided with a media content (i.e., first contents) like name of the media content, an album on which the media content is featured, etc. (i.e., first related-contents).³ Further, Poltorak describes that the memory device (10C) of Poltorak's *broadcasting apparatus* contains the broadcasted media content.⁴

Therefore, in Poltorak, the memory device (10C), which stores both the media content (i.e., the first contents) and the information (i.e., the first-related contents) provided with the media content, is in Poltorak's *broadcasting apparatus*, and *not* in Poltorak's media playing device (20) (which appears to correspond to the claimed content receiving apparatus).

Further, Poltorak describes that the information pertaining to, and/or relating, to a song or selection of music can be stored in a memory location or buffer of the media playing device (20).⁵

Therefore, Poltorak simply describes a single memory location or buffer in the media playing device (20) to store the information pertaining to, and/or relating, to the song.

However, there is *no* disclosure in Poltorak that the media playing device (20) includes a temporary memory unit, associated with Poltorak's media playing device (20), to temporarily store the information pertaining to, and/or relating, to the song, and there is no

² See Office Action dated July 24, 2009, page 9.

³ See Poltorak, column 13, lines 3-21.

⁴ Id. at column 13, lines 22-24.

⁵ Id. at column 16, line 62 - column 17, line 3, and column 20.

disclosure in Poltorak of a memory, *separate* from the temporary memory unit, to store and relate the song and the information pertaining to, and/or relating, to the song.

Thus, Poltorak does not disclose or suggest the temporary memory unit and the memory, as recited in amended Claim 1.

Further, Applicants respectfully submit that Levy does not remedy the deficiencies of Poltorak discussed above. Thus, no matter how the teachings of Poltorak and Levy are combined, the combination does not teach or suggest the temporary memory unit, as recited in amended Claim 1.

The above discussion regarding independent Claim 1 also applies to independent Claims 5 and 11, which recite analogous features in claims with different scopes.

Accordingly, Applicants respectfully submit that independent Claims 1 and 5 patentably define over any combination of Poltorak and Levy. In addition, for the reasons discussed above regarding the patentability of independent Claims 1 and 5 over Poltorak and Levy, it is respectfully submitted that dependent Claims 12 and 13 which directly or indirectly depend from independent Claims 1 or 5, also patentably define over Poltorak and Levy.

Regarding the 35 U.S.C. § 103(a) rejection of independent Claim 11, Applicants respectfully submit that Danneels does not remedy the deficiencies of Poltorak and Levy discussed above. Thus, no matter how the teachings of Poltorak, Levy, and Danneels are combined, the combination does not teach or suggest the temporary memory unit, as recited in amended Claim 11. In addition, for the reasons discussed above regarding the patentability of independent Claim 11 over Poltorak, Levy, and Danneels, it is respectfully submitted that dependent Claim 14, which directly depends from independent Claim 11, also patentably defines over Poltorak, Levy, and Danneels.

Further, regarding the 35 U.S.C. § 103(a) rejections of dependent Claims 2-4 and 6-8, Applicants respectfully submit that the additional cited references do not remedy the deficiencies of Poltorak and Levy discussed above. Accordingly, Applicants respectfully submit that dependent Claims 2-4 and 6-8 patentably define over the art of record.

The present amendment adds Claim 15 for examination on the merits. No new matter has been added.⁶ It is respectfully submitted that the features of Claim 15 distinguish from the features recited in the art of record.

Consequently, in view of the present amendment and in light of the above discussion, the outstanding grounds for rejection are believed to have been overcome. The application as amended herewith is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

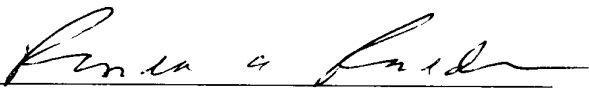
Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Ronald A. Rudder, Ph. D.
Registration No. 45,618

⁶ Claims 15 recite features analogous to features recited in Claim 1.